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# Wide Subpoenas Issued In Military Bidding Case

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WASHINGTON, Jan. 2 — The lawyers defending three men charged with illegally obtaining Pentagon planning documents for a military contractor to gain a bidding advantage have subpoenaed nearly 100 Defense Department employees to try to prove that circulation of such information was common practice in the arms industry.

The defense has also subpoenaed a number of major military contractors to disclose any "bootleg" Pentagon documents in their files that would establish the companies had trafficked in classified planning documents.

Both the companies and the Government are resisting the subpoenas in an unusual case that marks the first time the Government has used the espionage statutes against military contractors for circulating classified information among industry employees who held security clearances.

In November a Federal grand jury accused the GTE Government Systems Corporation of conspiracy to defraud the Government's bidding process. Prosecutors contended that GTE had obtained a competitive advantage by illegally obtaining classified Pentagon planning documents. The company pleaded guilty in November under an arrangement that permitted it to continue bidding on Government contracts.

At the same time, the grand jury handed up charges of espionage and theft of Government property against Walter R. Edgington, a GTE vice president, and Bernie E. Zettl, a former consultant to the company. Robert R. Carter, a former marketing manager for the company, was charged with participating in the alleged conspiracy.

The three defendants have pleaded not guilty and have mounted a vigorous defense, challenging the conduct of the investigators, the security of Pentagon procedures for handling such documents and the validity of the indictment.

At the request of the prosecution, a Federal district judge in Alexandria, Va., agreed at a closed hearing today to postpone the opening of the trial from Jan. 8 to Feb. 18. The delay was for further hearings on how to handle classified information the defense would like to use at trial.

A hearing on the subpoenas served by the defense lawyers on other military contractors is scheduled for Friday morning before Federal District Judge James C. Cacheris. Among the contractors subpoenaed are General Dynamics, Northrop, McDonnell Douglas and TRW. These concerns argue that the case has nothing to do with them.

## Opposition by Prosecution

The prosecution opposed the subpoenas for both the companies and the Pentagon employees, saying, "In practical terms, it would be similar to allowing individuals who smoke marijuana or use cocaine to testify that 'everybody does it' as a defense at a drug trial."

"The question is not what everybody does, but whether, in fact, the individuals who are charged with violating the law in this case did so," said the prosecution.

The lawyers defending the three people charged in this case dispute this assertion. They argue that the types of documents at issue are openly circulated in the military industry and the Pentagon among people with appropriate security clearances.

Additionally, the lawyers contend that neither regulations nor statute specifically makes it a crime to use military documents in the manner described in the indictment.

"There is a widespread practice in the defense community by which civilian and military Department of Defense personnel, consultants and industry employees with appropriate security clearances convey budgetary, planning and programming information to other persons with appropriate clearances," said a paper filed by the defense team. "Indeed the practice exists because Department of Defense officials want industry to be fully informed of the scope and trends of D.O.D.'s programming and budgetary objectives."

## Documents at Issue in Case

The defense noted that the Pentagon had several scientific advisory boards, composed of industry officials and engineers, that help the Pentagon weigh future programs. Additionally, defense lawyers contended that the documents at issue in the case were on file for military contractors to read at the Naval Acquisition Research and Development Information Center.

In response, prosecutors have argued that the information on the planning documents is carefully husbanded and given to contractors only on a "need to know" basis. The prosecution did concede, however, that such information was released, on occasion, to military contractors in advance of a bid.

One document cited by the defense was the Congressional testimony of Robert L. Segal, a former investigator in the GTE case who had worked for the Defense Criminal Investigative Service.

Mr. Segal was scheduled to appear before a Senate subcommittee as a witness. At the request of Justice Department officials fearful of prejudicing their case against GTE, his appearance was called off but a copy of his prepared testimony was inadvertently distributed.

In it, he said that 25 companies were under investigation for misusing classified documents. Some, he said, had "espionage units" set up to steal documents to secure a competitive advantage.

He said the investigation of GTE was "the tip of the proverbial iceberg." The inquiry's focus, Mr. Segal wrote, was "the indiscriminate distribution of both proprietary and highly classified Government documents by individuals within and without the Government in total disregard of the laws."

Justice Department officials have said that the decision to use the espionage laws in this case against the individuals was made reluctantly and only because it was feared that the theft of Government property statutes might prove invalid for such a case.